

138. The apparatus of claim 137 wherein a piston is provided in the cassette to provide a vacuum with said cassette by pulling said piston while an associated conduit of said cassette engages a subject to obtain a biological sample.

REMARKS

Applicant had submitted a Preliminary Amendment as well as a Supplemental Amendment which may have cause the examiner to overlook the Preliminary Amendment claims. The previously submitted claims have also been renumbered to include a claim 21. Renumbered claims 32-36 and 38-39 have been cancelled. Thus claims 15 through 31 and 37 from the previous are represented in clean and marked up form for consideration by the examiner. These claims differentiate from the claims allowed in applicant's patent referred to in the office action. In view of the breadth of applicant's disclosure and the novelty thereof, additional claims have been added to the various features of applicant's invention.

Responding specifically to the examiner's comments of paragraph 1, the claims have been renumbered to include a claim 21. References to a CD or DVD have been deleted from the claims. Proper reliance upon the antecedent "analyzer disk assembly" is now provided in the claims.

Considering the comments of paragraphs 2 and 3, the claims as intended in the Preliminary Amendment and as now presented including claims 15 through 20 are not identical to claims 1 through 6 of applicant's US Patent No. 6,196,979. The renumbered claims 26 through 30, as presented in the Preliminary Amendment and as now presented are not identical to claims 12 through 16 of the '979 patent. It is respectfully submitted that the claims are not subject to a double patenting rejection as stated in paragraphs 2 through 4 of the office action.

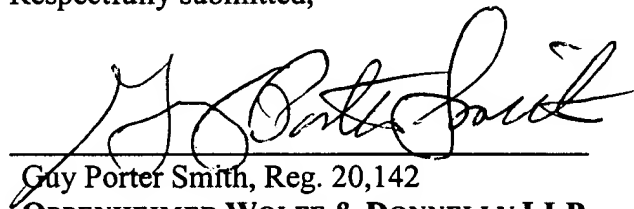
Applicant acknowledges the examiner's comments of paragraphs 5 and 6 with regard to the judicially created doctrine of obviousness-type double patenting applied to some of the claims and possibly to be applied to other claims of the present application. Applicant requests the examiner to act on claims originally submitted and as represented. Should a timely filed Terminal Disclaimer be required, applicant will comply.

Applicant's disclosure has many features which applicant does not wish to consider as being dedicated to the public. In the recent United States Court of Appeal for the Federal Circuit decision in Johnson & Johnston Associates Inc. v. R. E. Service Co., Inc. and Mark Frater, decided in bank on March 28, 2002, the Court majority found that features of the patentees invention not claimed were considered dedicated to the public. Applicant thus submits additional claims directed to the features of applicant's invention which applicant believes are patentable and should not be dedicated to the public as might be suggested by the Court of Appeals for the Federal Circuit should a claim thereto not be sought and obtained.

A three month extension of time to respond to the Office Action is requested and a check in the amount of \$460.00 accompanies this petition. The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Account No. 16-2230.

Respectfully submitted,

Dated: April 15, 2002

A handwritten signature in black ink, appearing to read "Guy Porter Smith", is written over a horizontal line.

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MARKED UP SET OF THE CLAIMS TO SHOW CHANGES

15. (Amended) An apparatus for collecting a biological sample from a subject for subsequent transfer to [a CD or DVD] an analyzer disk, said apparatus comprising:

[(a)] a cassette [comprising] having walls which define a cavity for receiving said biological sample, said cassette being adapted to engage said [CD or DVD] analyzer disk;

[(b)] an inlet for transferring said biological sample from the subject into said cavity;
and

[(c)] an outlet for transferring said biological sample from said cavity to said [CD or DVD] analyzer disk when said cassette is engaged with said [CD or DVD] analyzer disk.

16. (Amended) An apparatus according to claim 15 wherein said cassette [comprises] has a mechanical rectifier which locks said cassette in engagement with said [CD or DVD] analyzer disk.

17. (Amended) An apparatus according to claim 15 wherein said inlet [comprises] has a conduit having a first end for penetrating said subject and a second end for penetrating the wall of said cassette which defines said cavity.

18. (Amended) An apparatus according to claim 15 [which further comprises] having a reagent or washing solution for said sample.

19. (Amended) An apparatus according to claim 15 [which further comprises] having an electrical component or microelectromechanical component.

20. (Amended) An apparatus according to claim 15 [which further comprises] having an applicator for housing said cassette prior to engagement of said cassette with said [CD or DVD] analyzer disk.

[22] 21. (Twice Amended) An analyzer disk assembly comprising:

[(A)] [a] an analyzer disk [body] having a surface adapted to engage an apparatus which contains a biological sample for transfer to said analyzer disk; and

[(B)] an apparatus engaged with said surface of said analyzer disk [body], said apparatus including:

[(a)] a cassette having walls which define a cavity for containing said biological sample;

[(b)] an inlet for introducing said biological s into said cavity prior to engagement of said apparatus with said surface of said analyzer disk [body]; and

[(c)] an outlet for transferring said biological sample from said cavity to said analyzer disk when said apparatus is engaged with said surface of said disk [body].

[23.] 22. (Twice Amended) [A CD or DVD] An analyzer disk according to claim [22] 21 wherein said cassette [comprises] has a mechanical rectifier which locks said cassette in engagement with said surface of said disk body.

[24.] 23. (Twice Amended) [A CD or DVD] An analyzer disk according to claim [22] 21 wherein said inlet [comprises] has a conduit having a first end for receiving said biological sample and a second end for penetrating the wall of said cassette which defines said cavity.

[25.] 24 (Twice Amended) [A CD or DVD] An analyzer disk according to claim [22] 21 wherein said apparatus [further comprises] has a reagent or washing solution for said sample.

[26.] 25. (Twice Amended) [A CD or DVD] An analyzer disk according to claim [22] 21 wherein said apparatus [further comprises] has an electrical component or microelectromechanical component.

[27.] 26. (Twice Amended) A method for transferring a biological sample from a subject to [a CD or DVD] an analyzer disk, said method comprising [the steps of]:

transferring the biological sample from the subject to a cavity of a cassette;

engaging [a] said cassette with [a CD or DVD] an analyzer disk; and

transferring the biological sample from said cassette to said [CD or DVD] analyzer disk.

[28.] 27. (Twice Amended) A method according to claim [27] 26 wherein said cassette [further comprises] has a reagent or washing solution, said method further includes [comprising the step of] contacting said reagent or washing solution with said biological sample located [with] within said cavity of said cassette.

[29.] 28. (Twice Amended) A method according to claim [27] 26 which further includes [comprises the step of] locking said cassette in engagement with said [CD or DVD] analyzer disk.

[30.] 29. (Amended) A method according to claim [27] 26 wherein said cassette further [comprises] has a conduit having a first end and a second end, wherein said method further includes [comprises the steps of] penetrating said subject with said first end and penetrating a wall of said cavity of said cassette with said second end to provide transfer of said biological sample from said subject to said cavity.

[31.] 30. (Twice Amended) A method according to claim [27] 26 wherein said cassette further [comprises] has an electrical component or microelectromechanical component, said method further includes [comprising the step of] treating said biological sample located in said cavity of said cassette with said electrical component or said microelectrochemical component.

[32.] 31. (Amended) An apparatus according to any one of claims 15 through [20] 25 wherein said analyzer disk is an optical disc.

[38.] 37. (Amended) A method according to any one of claims [27] 26 through [31] 30 wherein said analyzer disk is an optical disc.